

### **REMARKS**

This is a full and timely response to the outstanding non-final Office Action mailed April 8, 2005 (Paper No. 1). Upon entry of this response, claims 1, 5-12, 15, 19-26, and 43-63 are pending in the application. In this response, claims 1, 15, and 20 have been amended, claims 45-63 have been added, and claims 2-4, 13-14, 16-18, and 27-42 have been cancelled. Applicants respectfully request that the amendments being filed herewith be entered and request that there be reconsideration of all pending claims.

1. **Allowable Subject Matter**

Applicants acknowledge the Examiner's indication in the Office Action that claims 6-8, 21-22, 34-35 and 36 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims. However, Applicants have not amended claims 6-8, 21-22, 34-35 and 36 because Applicants believe that the base claims from which these claims depend are allowable for at least the reasons discussed below.

2. **Rejection of Claims 1-5, 9-19, 23-33 and 37-44 under 35 U.S.C. §102**

Claims 1-5, 9-19, 23-33 and 37-44 have been rejected under §102(e) as allegedly anticipated by *Ma et al.* (U.S. 6,775,280). Applicants respectfully submit that rejection of these claims is overcome by claim amendments made herein, or rendered moot by claim cancellation. A proper rejection of a claim under 35 U.S.C. §102 requires that a single prior art reference disclose each element of the claim, *See, e.g., W.L. Gore & Assoc., Inc. v. Garlock, Inc.*, 721 F.2d 1540, 220 U.S.P.Q. 303, 313 (Fed. Cir. 1983).

a. Claims 1, 15, and 43

Applicants respectfully submit that *Ma et al.* does not disclose, teach, or suggest the feature of “selecting one forwarding destination for each packet from a plurality of forwarding destinations when more than one path to the translated destination address is available, wherein said selecting is based on flow quality statistics associated with the first flow” as recited in amended claims 1, 15, and 43.

The router in *Ma et al.* makes an initial forwarding decision for the first packet in a “packet stream.” When the first packet in a stream arrives, the router examines a set of path from the router to the intended destination. The router then “eliminates any available paths that are unable to carry the packet 30 to its destination within the QoS policy constraint specified by the policy.” (Col. 9, lines 29-32.) This initial forwarding decision is based on policy data 52 and propagation delay data 90. (Col. 9, lines 35-55.) All subsequent packets that belong to the same “pre-established packet stream” are routed along the same previously-determined path (Col. 8, line 65 to Col. 9, line 10.)

In contrast, Applicants’ claimed invention as defined by claims 1, 15, and 43 makes a forwarding decision for each packet in a particular flow, where flow is defined by the claim as “packets flowing between a first endpoint and a second endpoint, wherein each endpoint comprises a network address and source port.” This per-packet forwarding decision is based on flow quality statistics associated with the flow to which the packet belongs.

Thus, even if the QoS policy constraint and the propagation delays in *Ma et al.* correspond to “flow quality statistics,” *Ma et al.* does not “select one forwarding destination for each packet...based on flow quality statistics” as recited in claims 1, 15, and 43. For at least the reason that *Ma et al.* fails to disclose, teach or suggest the above recited feature, Applicants

respectfully submit that amended claims 1, 15, and 43 overcome the rejection. Therefore, Applicants request that the Examiner's rejection of claims 1, 15, and 43 be withdrawn.

b. Claims 27-42

Claims 27-42 are cancelled without prejudice, waiver, or disclaimer, and therefore, this rejection is rendered moot. Applicants take this action merely to reduce the number of disputed issues and to facilitate early allowance and issuance of other claims in the present application. Applicants reserve the right to pursue the subject matter of this cancelled claim in a continuing application, if Applicants so choose, and do not intend to dedicate any of the cancelled subject matter to the public.

c. Claims 2-5, 9-14, 16-19, 23-26, and 44

Since claims 1, 15, and 43 are allowable for at least the reasons discussed above, Applicants respectfully submit that claims claims 2-5, 9-14, 16-19, 23-26, and 44 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). Therefore, Applicants respectfully request that the rejection of claims claims 2-5, 9-14, 16-19, 23-26, and 44 be withdrawn.

3. Newly Added Claims

Applicants submit that independent claim 55 is allowable for at least the reason that the cited references do not disclose, teach, or suggest "detecting an interruption in a reverse flow from the destination endpoint to the source endpoint through the first media router."

Furthermore, since independent claims 1, 15, 43, and 55 are allowable for at least the reasons discussed above, dependent claims 45-54 and 56-63 are allowable for at least the reason that each depends from an allowable claim. *In re Fine*, 837 F.2d 1071, 5 U.S.P.Q. 2d 1596, 1598

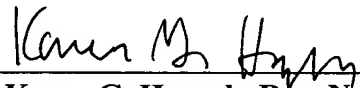
(Fed. Cir. 1988). Therefore, Applicants requests that the Examiner enter and allow the above new claims.

**CONCLUSION**

Applicants respectfully request that all outstanding objections and rejections be withdrawn and that this application and presently pending claims 1, 5-12, 15, 19-26, and 43-63 be allowed to issue. If the Examiner has any questions or comments regarding Applicants' response, the Examiner is encouraged to telephone Applicants' undersigned counsel.

Respectfully submitted,

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**AMENDMENTS TO THE DRAWINGS**

Please replace FIG. 3 with the attached Replacement Sheet. The replacement FIG. 3 changes the reference numeral for Flow Quality Management Engine from 162 to 157, in order to be consistent with the reference numeral used in the specification.